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8 Geoffrey Richards

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10 **UNITED STATES BANKRUPTCY COURT**  
11 **EASTERN DISTRICT OF CALIFORNIA**

12 In re:

13 ANDREW JOHN COLEMAN,

14 Debtor.

CASE NO. 16-21924-B-7

D.C. NO. BHS-4

**MOTION FOR SALE OF  
ESTATE'S INTEREST IN REAL  
PROPERTY AND AUTHORITY  
TO PAY REAL ESTATE  
BROKER'S COMMISSION**

15 DATE: March 28, 2017  
16 TIME: 9:30 a.m.  
17 DEPT: B; COURTROOM 32  
Hon. Christopher D. Jaime

18 Geoffrey Richards, duly appointed Chapter 7 Trustee (hereafter the "Trustee") in the  
19 above-captioned matter, through his counsel, Barry H. Spitzer, moves this Court for  
20 authority to sell the estate's interest in the real property commonly known as: 553 Wigeon  
21 Way, Suisun City, California 94585 ("Subject Property") pursuant to the provisions of 11  
22 U.S.C. section 363(b) of the Bankruptcy Code with existing liens and property taxes, if any,  
23 being paid by the estate through escrow for \$340,000.00 "as-is" and "where-is" with no  
24 warranties or guarantees. The Subject Property is a single-family residence. In support of  
25 his Motion, the Trustee states the following:

26 1. This case was commenced on March 28, 2016 as a Chapter 13. The case  
27 was converted to a Chapter 7 case by Order of this Court on October 12, 2016 and the  
28 Trustee was appointed October 13, 2016.

1           2.     The Trustee and the Debtor entered into a Stipulation, which was approved  
2 by this Court on January 4, 2017, to resolve a dispute over the Right Eye Brewing LLC  
3 value and exemption by allowing the Trustee to sell the Subject Property and applying the  
4 net proceeds from the sale of the Subject Property first to pay validly filed priority and  
5 unsecured claims, as well as Court-approved administrative expenses before applying the  
6 Debtor's homestead exemption to the net proceeds.

7           3.     That the Trustee is aware a voluntary mortgage lien on the Subject Property  
8 in favor of Green Planet Mortgage, LLC, in the approximate amount of \$202,322.00.

9           5.     The Trustee wishes to sell the Subject Property "as-is" and "where-is" with  
10 no warranties or guarantees to Michela Rene Ward and Chad Stephen Ward (hereinafter  
11 "the Buyers") for \$340,000.00. A copy of the Sales Agreement is Exhibit "A." The Buyer  
12 has placed a \$5,000.00 deposit with the Trustee, which is non-refundable upon Court  
13 approval. The Trustee believes it is in the best interest of the estate to sell the Subject  
14 Property to the Buyers for \$340,000.00.

15          6.     The Trustee requests that the Court only approve overbids presented at the  
16 hearing that meet the following criteria:

17               (a)     Overbidding shall start at \$342,000.00, with the buyer agreeing to all  
18 terms and conditions in the Residential Purchase Agreement, a copy of which is Exhibit  
19 "A." The overbids shall be in minimum \$2,000.00 increments.

20               (b)     To qualify as a bidder, the bidder must bring to the Court a Cashier's  
21 Check or a certified check for \$7,000.00. This Cashier's or certified check shall serve as  
22 a non-refundable deposit if the overbid is successful.

23               (c)     The successful overbidder must deliver to the Trustee a Cashier's or  
24 certified check for the overbid amount within 48 hours of Court approval of the sale.

25               (d)     Escrow to close within thirty (30) days of Court approval.

26          7.     The Trustee seeks authority to execute any and all additional conveyances,  
27 assignments, schedules and other documents as may be necessary to consummate this  
28 sale. The Trustee seeks specific authority to pay the agreed closing costs. The Trustee

1 also seeks specific authority to pay the Court-approved Real Estate Broker, Thomas J.  
 2 Rapisarda a commission of 5% of the total sales price through escrow. If the successful  
 3 bidder has their own Realtor, the 5% commission will be split between Thomas J.  
 4 Rapisarda and the Buyer's Realtor.

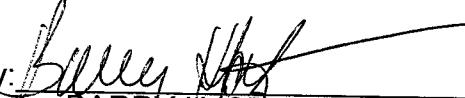
5 8. The Trustee further seeks a waiver of the fourteen day waiting period  
 6 imposed by Federal Rule of Bankruptcy Procedure, Rule 6004(h).

7 WHEREFORE, Geoffrey Richards respectfully requests that he be authorized to sell  
 8 the real property commonly known as: 553 Wigeon Way, Suisun City, California 94585;  
 9 "as-is" with payment to Green Planet Mortgage, LLC, in the approximate amount of  
 10 \$202,322.00 and any other existing liens and property taxes, if any, being paid by the  
 11 estate through escrow, to Michela Rene Ward and Chad Stephen Ward for \$340,000.00,  
 12 pursuant to the Residential Income Property Purchase Agreement, a copy of which is  
 13 Exhibit "A." The sale is being made pursuant to the provisions of section 363(b) of the  
 14 Bankruptcy Code, with the estate paying the agreed closing costs; and that the Trustee be  
 15 authorized to execute any and all additional conveyances, assignments, schedules and  
 16 other documents as may be necessary to consummate this sale. The Trustee further  
 17 seeks specific authority to pay the Court-approved Real Estate Broker, Thomas J.  
 18 Rapisarda a commission of 5% of the total sales price through escrow. If the successful  
 19 bidder has their own Realtor, the 5% commission will be split between Thomas J.  
 20 Rapisarda and the Buyer's Realtor. The Trustee further seeks a waiver of the fourteen day  
 21 waiting period imposed by Federal Rule of Bankruptcy Procedure, Rule 6004(h).

22 Respectfully submitted,

23 DATED: February 22, 2017

LAW OFFICE OF BARRY H. SPITZER

24 By:   
 25 BARRY H. SPITZER  
 26 Attorneys for Geoffrey Richards,  
 27 Chapter 7 Trustee  
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